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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

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Arizona Corporation Commission

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AZ CORP COMMISSION
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MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

DOCKETED BY

CAK

IN THE MATTER OF THE APPLICATION OF
H2O, INC., FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONEINENCE
AND NECESSITY

DOCKET NO. W-02234A-00-0371

IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, L.L.C. DBA JOHNSON
UTILITIES COMPANY FOR AN EXTENSION
FOR ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE WATER AND
WASTEWATER SERVICE TO THE PUBLIC IN
THE DESCRIBED AREA IN PINAL COUNTY,
ARIZONA

DOCKET NO. WS-02987A-99-0583

DOCKET NO. WS-02987A-00-0618

IN THE MATTER OF THE APPLICATION OF
DIVERSIFIED WATER UTILITIES, INC. TO
EXTEND ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY

DOCKET W-02859A-00-0774

IN THE MATTER OF THE APPLICATION OF
QUEEN CREEK WATER COMPANY TO
EXTEND ITS CERTIFICATE OF CONVEINENCE
AND NECESSITY

DOCKET NO. W-01395A-00-0784

PROCEDURAL ORDER

BY THE COMMISSION:

In Decision Nos. 63960 (September 4, 2001) and 64062 (October 4, 2001) the Arizona Corporation Commission ("Commission") approved the extension of the Certificates of Convenience and Necessity ("Certificate") of H2O, Inc. ("H2O" or "Company") and the other above-captioned utilities subject to a number of conditions. One condition required of H2O is to file, within 30 days of the anniversary date of the Decision as amended each year for the next two years, documentation from the Arizona Department of Environmental Quality ("ADEQ") indicating that H2O has been in compliance with ADEQ for each year, and that failure to submit this documentation in the Docket or

1 failure to correct any major or minor violation within 90 days from the date of notice of violation
 2 would result in the Certificate authorized therein becoming null and void without further order of the
 3 Commission. The ADEQ documentation was to be filed by November 4, 2002.

4 Decision No. 63960 as amended by Decision No. 64062 further conditioned approval of the
 5 extension of H2O's Certificate and required H2O to file, within two years of the effective date of this
 6 Decision, the following:

- 7 • a copy of the developers' Certificates of Assured Water Supply ("CAWS") to
 8 be issued by the Arizona Department of Water Resources ("ADWR") for the
 9 respective parcels and sections;
- 10 • a copy of its Certificate of Approval of Construction ("CAC") to be issued by
 11 ADEQ for the main extension for the Combs School;¹
- 12 • a copy of its franchise from Pinal County for the extension areas represented
 13 by the aforementioned parcels and its franchise from Maricopa County for all
 14 of Section 13 as set forth in in Exhibits A and B to Decision No. 63960 as
 15 amended;
- 16 • copies of all CACs and Certificates of Approval of Construction for
 17 development in each of the respective approved parcels; and
- 18 • a request for Certificate review after which, Staff, at its discretion, shall
 19 perform a physical plant inspection to determine the extent to which
 20 development has commenced.²

21 Pursuant to Decision No. 63960 as amended, after submission of H2O's request for review,
 22 Staff is to have 120 days to file a report containing one of the following three recommendations:

- 23 • final approval of the Certificate for all parcels approved in this proceeding;
- 24 • final approval of the Certificate for portions of the parcels approved in this
 25 proceeding with the cancellation of the undeveloped portions of the
 26

27 ¹ The CAC for the construction of the Combs School main extension is moot since H2O has indicated in its
 request herein that the Combs School satisfied its water needs with its own well.

28 ² The Certificate review should include the following data: number of customers in the extended area, amount of
 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in
 the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other
 information Staff deems relevant.

1 parcels; or

- 2 • disapproval of the Certificate for the parcel approved in this proceeding.

3 On November 6, 2002, H2O filed a request for a retroactive extension of time to comply with
4 Decision No. 63960 as amended in order to file the required ADEQ compliance documentation. In
5 its request, H2O stated that it required 30 days to file the required ADEQ documentation. H2O
6 indicated that the time was needed because it was awaiting the documentation and was not sure when
7 it would be received from ADEQ.

8 On November 12, 2002, the Commission's Utilities Division ("Staff") filed a response to
9 H2O's request for a retroactive extension of time in order to comply with Decision No. 63960 as
10 amended. In its response, Staff indicates that it did not oppose the requested extension of time for
11 H2O to file the required ADEQ documentation.

12 On November 20, 2002, H2O filed a copy of its documentation from ADEQ dated November
13 19, 2002, indicating H2O had no major deficiencies and was delivering water which meets the water
14 quality requirements of ADEQ.

15 On December 19, 2002, the Commission, by Procedural Order, approved H2O's request for a
16 retroactive extension of time to comply with Decision No. 63960 as amended by Decision No. 64062
17 to file ADEQ documentation and ordered that H2O's extended Certificate remain in full force and
18 effect.

19 On September 11, 2003, H2O filed what was captioned, "H2O, Inc. Requests An Extension of
20 Time To Comply" ("Extension Request") and requested a two year extension of time to file copies of
21 the developers' CAWS issued by ADWR for the respective parcels and copies of the CACs for the
22 main extensions for the respective parcels. In support of H2O's Extension Request, H2O filed
23 evidence of compliance which documents the Company's ongoing efforts to comply with Decision
24 No. 63960 as amended. H2O included a copy of an ADEQ compliance status report dated August
25 29, 2003, which indicates that H2O has no major operating deficiencies and the water which it
26 provides meets the requirements of the Safe Drinking Water Act. H2O also filed copies of its
27 Maricopa and Pinal County franchises for the extension of its Certificate in the respective counties.
28 Additionally, H2O provided copies of CAWs and CACs which have previously been received for the

1 development of Pecan Ranch in Section 29 in Parcel 15. The Company further described the
2 progress with respect to its remaining parcels indicating that the required CAWs and CACs had not
3 yet been received, but that planning was going forward, albeit slowly and in some instances zoning
4 issues remain to be resolved. Lastly, H2O requested Staff to conduct a Certificate review as required
5 by Decision No. 63960 as amended.

6 On October 7, 2003, Staff filed its response to the Extension Request by H2O. In its
7 response, Staff reviewed the Company's compliance filing finding it in compliance with Decision
8 No. 63960 as amended by Decision No. 64062. Staff recommended approval of H2O's Extension
9 Request. However, Staff further recommended that no additional extensions be approved, and did
10 not comment on the status of H2O's Certificate review as requested in its compliance filing.

11 Accordingly, H2O's filing meets the compliance requirements of Decision No. 63960 as
12 amended and H2O's Extension Request is reasonable and should be granted for a period of two years
13 to acquire the necessary documentation. However, no further extensions should be approved unless
14 good cause can be shown for an extension. During the pendency of the two year extension, Staff
15 should delay the filing of its report on its Certificate review of the respective parcels as to their final
16 approval or disapproval.

17 IT IS THEREFORE ORDERED that the request of H2O, Inc. for a two year extension of time
18 to comply with Decision No. 63960 as amended by Decision No. 64062 to file ADEQ and ADWR
19 documentation be, and is hereby, granted.

20 IT IS FURTHER ORDERED that H2O, Inc. is hereby found to be in compliance with
21 Decision No. 63960 as amended by Decision No. 64062 and its Certificate of Convenience and
22 Necessity extended by the aforementioned Decision remains in full force and effect.

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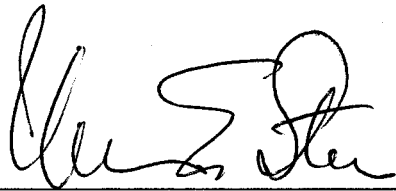
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1 IT IS FURTHER ORDERED that Staff should delay its report on its Certificate review
2 concerning the final approval or disapproval of the respective parcels to be included in H2O's
3 certificated service area until the two year extension authorized hereinabove has expired.

4 IT IS FURTHER ORDERED that no further extensions of time shall be granted hereinafter
5 unless good cause is shown.

6 DATED this 30TH day of October, 2003.

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MARC E. STERN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
this 30 day of October, 2003 to:

Richard L. Sallquist
SALLQUIST & DRUMMOND
2525 East Arizona Biltmore Circle, Ste. A117
Phoenix, AZ 85016
Attorneys for Johnson Utilities, L.L.C.

Jay Shapiro
Karen E. Errant
FENNEMORE CRAIG, P.C.
3003 N. Central, Ste. 2600
Phoenix, AZ 85012
Attorneys for H2O Water Company

Charles A. Bischoff
JORDAN & BISCHOFF
7272 E. Indian School Road, Ste. 205
Scottsdale, AZ 85251
Attorneys for Queen Creek Water Company

William Sullivan
MARTINEZ & CURTIS, P.C.
2712 N. 7th Street
Phoenix, AZ 85008

Petra Schadeberg
PANTANO DEVELOPMENT LTD. PARTNERSHIP
3408 N. 60th Street
Phoenix, AZ 85018

Richard N. Morrison
SALMON, LEWIS & WELDON
4444 N. 32nd Street, Ste. 200
Phoenix, AZ 85018

1 Kathy Aleman, Manager
2 WOLFCOR, L.L.C. & WOLFKIN FARMS
3 Southwest Properties, Inc.
4 3850 E. Baseline Road, Ste. 123
5 Mesa, AZ 85026

6 Dick Maes, Project Manager
7 VISTOSO PARTNERS, L.L.C.
8 1121 W. Warner Road, Ste. 109
9 Tempe, AZ 85284

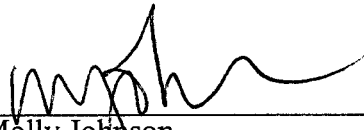
10 Christopher Kempley, Chief Counsel
11 Legal Division
12 ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
14 Phoenix, Arizona 85007

15 Ernest Johnson, Director
16 Utilities Division
17 ARIZONA CORPORATION COMMISSION
18 1200 West Washington Street
19 Phoenix, Arizona 85007

20 Richard Tobin
21 Deputy Director
22 ADEQ
23 1110 W. Washington Street
24 Phoenix, AZ 85007

25 Bill DePaul
26 Enforcement Coordinator
27 Drinking Water Compliance and Enforcement Unit
28 ADEQ
1110 W. Washington Street
Phoenix, AZ 85007

By:


Molly Johnson
Secretary to Marc E. Stern